

Agency 50

Department of Labor— Division of Employment

Editor's Note:

The Kansas Department of Human Resources was renamed the Kansas Department of Labor by Executive Reorganization Order No. 31. See L. 2004, Ch. 191.

Articles

50-1. MEANING OF TERMS.

50-2. UNEMPLOYMENT INSURANCE; CONTRIBUTING, REIMBURSING AND RATED
GOVERNMENTAL EMPLOYMENT.

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50-4. DISCLOSURE OF INFORMATION.

Article 1.—MEANING OF TERMS

50-1-1. (Authorized by K.S.A. 1965 Supp. 44-714(a); effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 1987.)

50-1-2. Meaning of terms relating to both unemployment compensation contributions and benefits. (a) Division. “Division” means the division of employment security, department of human resources, state of Kansas.

(b) State. “State,” for purposes of the interstate reciprocal coverage arrangement, the interstate benefit payment agreement, and the interstate plans for wage combining, means the states of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and Canada, if the state has subscribed to the agreement or arrangement and has not terminated its adherence thereto. (Authorized by and implementing K.S.A. 1999 Supp. 44-714(a), (k); effective Jan. 1, 1966; amended May 1, 1980; amended Feb. 16, 2001.)

50-1-3. Definitions relating primarily to unemployment compensation contributions. (a) “Market” means the place or point where the producer or grower of the commodity customarily parts with economic interest in its future form or destiny.

(b) “Wages paid” shall include both wages actually received by the worker and wages constructively paid. Wages are constructively paid when they meet the following criteria:

(1) Are credited to the account of or set apart

for a worker without any substantial restriction as to the time or manner of payment or condition upon which payment is to be made;

(2) are made available so that they may be drawn upon by the worker at any time; or

(3) are brought within the worker’s own control and disposition, although not then actually reduced to possession. (Authorized by and implementing K.S.A. 1999 Supp. 44-703 and 44-714(a); effective Jan. 1, 1966; amended Jan. 1, 1972; amended May 1, 1980; amended May 1, 1983; amended May 1, 1987; amended Feb. 16, 2001.)

50-1-4. Definitions; unemployment compensation claims and benefit payments. (a) “Additional benefits” means benefits payable to exhaustees by reason of conditions of high unemployment or other special factors under provisions of any other state law. An “exhaustee” is an individual who has been paid all available unemployment insurance benefits.

(b) “Agent state” means any state in which an individual files a claim for benefits against another state.

(c) “Continued claim” means a request, filed as prescribed, for waiting period credit or benefits for a week of unemployment.

(d) “Covered wages” means wages paid for employment that is subject to the provisions of the Kansas employment security law.

(e) “Initial application or claim” means a new application or an additional application.

(1) “New application or claim” means a notice

by a worker, filed as prescribed, that the worker intends to claim unemployment compensation benefits and desires a determination as to the worker's rights to benefits, the validity of the claim, and, if valid, the inclusive dates of the worker's benefit year and the amount of benefits for which the worker is qualified on the basis of base period wage credits.

(2) "Additional application or claim" means a notice by any worker with a benefit year currently in effect, filed as prescribed, that the worker intends to resume the worker's claim in the previously established benefit year.

(f) "Interstate benefit payment plan" means the plan approved by the interstate conference of employment security agencies under which benefits are payable to unemployed individuals absent from the state or states in which benefit credits have been accumulated.

(g) "Interstate claimant" means an individual who claims benefits under the unemployment compensation law of a liable state from another state, through the facilities of an agent state or directly with the liable state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in another state to work in a liable state unless the liable state finds that this exclusion would create undue hardship on claimants in specified areas.

(h) "Liable state" means any state against which an individual files a claim for benefits.

(i) A "mass layoff" means a layoff of 25 or more workers because of lack of work, by an employer, at or about the same time.

(j) "Student," as used in K.S.A. 44-703(i)(4)(N) and amendments thereto, is an individual who performs services in the employ of a school, college, or university and who is enrolled and regularly attending classes at the school, college, or university. If the individual is pursuing a regular course of study in accordance with the requirements of the school the individual attends, the individual shall meet the requirements of "regularly attending classes."

Any individual who performs services in the employ of a school, college, or university that are incidental to and for the purposes of pursuing a course or courses of study at the school shall be considered to have the status of a student in the performance of that service. An individual who performs services in the employ of a school, college, or university primarily as a means of earning a livelihood may be considered an employee even

though the individual takes a course or courses of study at the school. This individual shall not be classified as a "student" in the performance of these services.

(k) Types of unemployed workers.

(1) "Full-time employment" means that, with respect to any one week, an individual works 40 or more hours or any other number of hours that is the recognized custom in the industry, irrespective of the individual's earnings for the week.

(2) "Partial unemployment" means that, with respect to any one week, an individual works less than full time because of lack of work and earns less than the individual's weekly benefit amount. Work and earnings from all employment shall be considered together in determining whether the individual worked less than full time and earned less than the individual's weekly benefit amount during the week.

(3) "Temporary unemployment" means that the individual has been laid off due to lack of work by an employing unit for which the individual has worked full time and for which the individual expects to again work full time, and that the individual's employment with the employing unit, although temporarily suspended, has not been terminated. Temporary unemployment shall not exceed four consecutive weeks.

(4) "Total unemployment" means that, with respect to any one week, the individual performs no services and earns no remuneration for services.

(l) "Week" means the calendar week of seven consecutive days beginning 12:01 a.m. Sunday and ending 12:00 midnight the following Saturday.

(m) "Week of unemployment" shall include any week of unemployment, as defined in the law of the liable state, from which benefits with respect to that week are claimed. (Authorized by K.S.A. 1999 Supp. 44-714; implementing K.S.A. 1999 Supp. 44-703, 44-704, 44-705, 44-709, and 44-714; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1984; amended Feb. 16, 2001.)

50-1-5. Meaning of terms relating to successor classification. The following terms are used when determining whether an employing unit is to be classified as a successor employer when acquiring the business of a predecessor employer in accordance with K.S.A. 44-703(h)(4) and 44-710a(b)(1).

(a) Employing enterprises. "Employing enter-

prises” means those business locations with employment.

(b) Organization. “Organization” means employees or employee positions required to continue the business.

(c) Trade. “Trade” means the clientele or customers which frequent the business.

(d) Business. “Business” means the goods sold, the services provided or some combination thereof.

(e) Assets. “Assets” means all items which are necessary to the normal operations of the day-to-day business. (Authorized by K.S.A. 44-714; implementing K.S.A. 44-703, 44-710a; effective May 1, 1983.)

Article 2.—UNEMPLOYMENT INSURANCE; CONTRIBUTING, REIMBURSING AND RATED GOVERNMENTAL EMPLOYMENT

50-2-1. Rules pertaining to the cash value of remuneration in kind. (a) Board, lodging, and any other forms of payment in kind to a worker that represent remuneration for services in addition to or in lieu of cash payments shall constitute wages, unless K.S.A. 44-703 (o) (11), and amendments thereto, applies. When payment for services is made partially in kind and deducted from the cash wages otherwise due a worker, the original cash wages due shall constitute the worker’s wages.

(b) The value of payments in kind determined by the secretary shall be used to compute contributions due and benefit payments.

(c) A cash value of payments in kind furnished to a worker agreed upon by the worker and the worker’s employing unit shall be deemed the value of this payment in kind unless it is less than the value of the payment in kind as specially determined by the secretary or, in the case of board and lodging, less than the value prescribed in subsection (d) of this regulation.

(d) Unless a different rate for board or lodging is determined by the secretary for a particular case, board or lodging furnished in addition to or in lieu of cash wages shall be deemed to have the following values:

(1) Lodging: Two-thirds of the market rental value of comparable lodging; and

(2) meals: 120% of the cost of all meal ingredients. (Authorized by and implementing K.S.A. 1999 Supp. 44-703(o); effective Jan. 1, 1966;

amended May 1, 1980; amended May 1, 1987; amended Feb. 16, 2001.)

50-2-2. Records to be maintained by employing unit. (a) Each employing unit shall maintain records as hereinafter indicated and shall preserve such records against damage or loss for a period of not less than five years from the due date of the contributions for the period in which the remuneration to which they relate was paid, or if not paid, was due.

(1) For each worker:

(A) Name.

(B) Social security account number.

(C) State or states in which services are performed; and if any of such services are performed outside the state and are not incidental to the services within the state, the base of operations with respect to such services (or if there is no base of operations then the place from which such services are directed or controlled) and residence (by state). Where the services are performed in Canada or the base of operations with respect to such services or the residence of the worker is in Canada, it shall be recorded as if Canada were a state.

(D) Date on which the worker was hired, rehired, or returned to work after temporary layoff and date separated from work and reason therefor.

(E) Remuneration paid for services and dates of payment showing separately: (i) Cash remuneration, including special payments (such as bonuses, gifts, back pay awards, dismissal payments, and similar payments); (ii) reasonable cash value of remuneration in any medium other than cash including special payments (such as bonuses, gifts, back pay awards, dismissal payments, and similar payments).

(F) Amounts paid as allowances or reimbursement for traveling or other business expenses, dates of payment, and the amounts of each expenditure actually incurred and accounted for.

(G) With respect to pay periods in which the worker performs services in both employment and nonsubject work: (i) Hours spent in employment; (ii) hours spent in nonsubject work including agricultural employment.

(2) General:

(A) Beginning and ending dates for each pay period.

(B) Total amount of wages paid in any quarter with respect to or for employment.

(b) Records shall be maintained by employing

units in such form as to make it possible to determine from an inspection thereof with respect to any worker:

(1) Earnings by pay-period weeks, if paid on a weekly basis, or, if not so paid, then by calendar weeks or by such other seven-consecutive-day period as the secretary may prescribe as to any individual or group of individuals.

(2) Weeks of less than full-time work.

(3) Time lost due to reasons other than lack of work.

(4) Calendar days worked by each employee. (Authorized by K.S.A. 1980 Supp. 44-714(f); effective Jan. 1, 1966; amended May 1, 1980.)

50-2-3. Payment of contributions and benefit cost payments. (a) Contributions and benefit cost payments with respect to wage payments. Contributions and benefit cost payments shall be payable for each calendar quarter with respect to wages paid during that calendar quarter.

(b) First contribution and benefit cost payment. The first contribution and benefit cost payment of any employing unit that becomes an employer at any time during the calendar year shall, except as otherwise provided in this regulation, become due on, and shall be paid on or before, the 25th day following the close of the quarter in which the employing unit becomes an employer and shall include contributions and benefit cost payments with respect to all wages paid during that calendar year, through the last day of that calendar quarter.

(c) Contributions and benefit cost payments: payment on notice of liability. Whenever the secretary or designee has, in writing, advised an employing unit that it has been determined not to be an employer or that services performed for it do not constitute employment, and when a legal obligation on the part of that unit to pay contributions and benefit cost payments is subsequently established, accrued contributions and benefit cost payments shall become due and interest shall accrue thereon 10 days after the employing unit is informed of its liability.

(d) Assessment of penalty and interest on newly subject employers. New employers subject to this act who fail to file wage reports and pay contributions and benefit cost payments due within the 10-day period authorized by K.S.A. 44-717(a), and amendments thereto, shall be assessed penalty and interest from the first contri-

bution and benefit cost payment due date shown on the form "notice of establishment or change" mailed to the employer.

(e) First contribution and benefit cost payment: payment; elective coverage. The first contribution and benefit cost payment of any employing unit that elects to become an employer or to have nonsubject services performed for it deemed employment shall, upon notice of approval of that election by the secretary, become due on and shall be paid, except as otherwise provided by this regulation, on or before the last day of the month following the close of the calendar quarter that includes either of the following, whichever is later:

(1) The effective date of the election; or

(2) the date of approval.

The first payment shall include contributions and benefit cost payments with respect to all wages for services covered by the election paid on and after the effective date and through the last day of the calendar quarter.

(f) Saturdays, Sundays, and holidays. When the regular payment day for any employer falls on Saturday, Sunday or a legal holiday, the payment shall be due and payable on the first regular business day following the payment day.

(g) Mail payments and wage reports. Payments and wage reports received through the mail shall be deemed to have been made or filed on the date they are placed in the United States mail. For the purpose of this regulation, the date placed in the United States mail shall mean the postmark date.

(h) Payment by check. When payment is made by check, the checks shall be payable to the Kansas employment security fund.

(i) Past due payments. Any employer who fails to pay any applicable contributions, payment in lieu of contributions, or benefit cost payment when due shall be subject to the interest, penalty, and actions provisions of K.S.A. 44-717, and amendments thereto. (Authorized by and implementing K.S.A. 1999 Supp. 44-710(a) and K.S.A. 1999 Supp. 44-717; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1974; amended May 1, 1980; amended May 1, 1983; amended Feb. 16, 2001.)

50-2-4. Identification of workers. (a) Each employer shall ascertain the social security number of each worker performing services for him or her in employment.

(b) Each employer shall report a worker's so-

cial security number in making any report required by the secretary with respect to such worker. (Authorized by K.S.A. 1980 Supp. 44-714(f); effective May 1, 1980.)

Editor's Note:

Former regulation 50-2-4 revoked May 1, 1980.

50-2-5. Reports; required of employers.

(a) *General requirements.* Each employing unit shall make such reports as the secretary may require and shall comply with instructions printed upon any report form issued by the secretary pertaining to the preparation and return of such report.

(b) *Report to determine status.* Every employing unit for which services are performed in employment shall file a report to determine status within fifteen (15) days after such first employment.

(c) *Employing unit becoming an employer.* An employing unit not already an employer which becomes an employer shall immediately give notice to the secretary of that fact. Such notice shall contain the employer's name and address and the business address and business name, if any.

(d) *Employer terminating business.* Any employer who terminates a business for any reason whatsoever or transfers or sells all of the organization, trade or business, or any part thereof, or, except in the usual course of business, sells a substantial part of the assets, or changes the trade name of such business or address thereof, shall immediately after such termination, transfer, sale or change of name or address give notice in writing to the secretary of that fact. Such notice shall contain the employer's account number, name, former address, and present address and, in event of a transfer or sale, the name and address of any new owner, and business name, if any.

(e) *Final wage and contribution report.* Any employer who sells or discontinues all employing enterprises shall file a final wage and contribution report with payment of all contributions due within fifteen (15) days following such action. (Authorized by K.S.A. 1980 Supp. 44-714(f); effective Jan. 1, 1966; amended May 1, 1980.)

50-2-6. Cooperation with other states.

(a) Only states subscribing to the interstate reciprocal coverage arrangement are governed by this regulation.

(b) Submission and approval of coverage elections under the interstate reciprocal coverage arrangement.

(1) Election to cover multi-state workers under the Kansas employment security law.

(A) Each employer shall complete and file an "employer's election to cover multi-state workers under the Kansas employment security law" with the chief of contributions.

(B) The chief of contributions or the chief's designee shall initially approve or disapprove the election. If approved, a copy of the election shall be forwarded to each interested state specified on the election and under whose employment insurance law the individual or individuals in question might, in absence of that election, be covered.

(C) Each interested state agency shall approve or disapprove the election and shall notify the Kansas agency accordingly. Upon notification, the chief of contributions or the chief's designee shall provide the employer with a copy of the approved or disapproved election.

(2) Elections to cover multi-state workers under other state laws.

The elected state shall forward applications for elections to the chief of contributions or the chief's designee who shall approve or disapprove the election and notify the elected agency accordingly.

(c) *Effective period of elections.*

(1) *Commencement.* Each election duly approved under this regulation shall become effective at the beginning of the calendar quarter in which the election was submitted unless the election, as approved, specifies the beginning of a different calendar quarter.

(2) *Termination.* The application of an election to any individual under this regulation shall terminate if the elected state finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than one interested state. The termination shall be effective as of the close of the calendar quarter in which notice of that finding is mailed to all parties affected.

(3) Whenever an election under this regulation ceases to apply to any individual, the electing unit shall notify the affected individual accordingly. (Authorized by and implementing K.S.A. 1983 Supp. 44-714; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984.)

50-2-7. (Authorized by K.S.A. 44-714(a); effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1983.)

50-2-8. (Authorized by K.S.A. 44-710b(d); effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 1983.)

50-2-9. (Authorized by K.S.A. 1980 Supp. 44-703(x), 44-710(e)(1) and (3), 44-711(e); effective Jan. 1, 1972; amended May 1, 1980; revoked Feb. 16, 2001.)

50-2-10. (Authorized by K.S.A. 44-711(e)(1); effective Jan. 1, 1972; amended Jan. 1, 1974; revoked May 1, 1987.)

50-2-11. Payments by reimbursing employers. Payments by reimbursing employers shall become due and payable 30 days after the date of mailing of the reimbursing employers quarterly statement of benefit charges. (Authorized by K.S.A. 1980 Supp. 44-710(e)(2); effective Jan. 1, 1972; amended May 1, 1980.)

50-2-12. Reports by reimbursing employers. Each reimbursing employer shall file, with the division, a report on forms furnished or authorized by the division. The report shall indicate for each covered worker the following information:

- (a) Social security number;
- (b) first and middle initial, and last name; and
- (c) total amount of wages, before deductions, paid during the quarter.

Each employer shall be subject to the provisions of K.S.A. 44-717, and amendments thereto. (Authorized by K.S.A. 1999 Supp. 44-714; implementing K.S.A. 1999 Supp. 44-710(e)(2), 44-717; effective Jan. 1, 1972; amended May 1, 1980; amended May 1, 1984; amended Feb. 16, 2001.)

50-2-13. (Authorized by K.S.A. 1980 Supp. 44-710(e)(2)(B); effective Jan. 1, 1972; revoked May 1, 1980.)

50-2-14. (Authorized by K.S.A. 1980 Supp. 44-710(b); effective Jan. 1, 1972; amended Jan. 1, 1974; revoked May 1, 1980.)

50-2-15 and 50-2-16. (Authorized by K.S.A. 1980 Supp. 44-710(e); effective Jan. 1, 1972; revoked May 1, 1980.)

50-2-17. Classification of employers by industrial activity. All employers subject to the Kansas employment security law shall be classified by industrial activity in accordance with the following, both of which are hereby adopted by reference:

- (a) The “standard industrial classification man-

ual,” 1987 edition, published by the office of management and budget; and

(b) the “North American industry classification system,” 1997 edition, published by the office of management and budget. (Authorized by and implementing K.S.A. 1999 Supp. 44-710a; effective May 1, 1983; amended Feb. 16, 2001.)

50-2-18. Surety bond or surety deposit requirements for reimbursing employers. (a)

Each employer who elects to become liable for payments in lieu of contributions in accordance with K.S.A. 44-710(e)(1), and amendments thereto, shall be required to file with the secretary a surety bond or surety deposit as set forth in K.S.A. 44-710(e)(2)(F), and amendments thereto.

(b) Minimum time period. The bond or deposit shall be required for a minimum period of four complete calendar years. If, at the close of that time period, the employer has a history of timely reporting and prompt payment of reimbursing the employer’s quarterly benefit charges, the surety bond or deposit shall no longer be required by the secretary.

(c) Termination or inactivity. Any reimbursing employer who ceases to be an employer under the Kansas employment security law while a surety bond or deposit is in effect shall be required to maintain that bond or deposit for a minimum period of three years after required reporting of wages ends.

(d) Surety amount when wages not paid during four calendar quarters immediately preceding effective date of election. The surety amount shall not exceed 5.4% of an estimate of the organization’s taxable wages for a four-calendar-quarter period. If an organization has an increase in employment during the time a surety bond or deposit is required, the organization may be required by the secretary or designee to increase the amount of the bond or deposit. The employer shall be notified of the increase within 60 days after the beginning of the calendar year in which the change is to be effective, and the employer shall have 30 days from the date of mailing of the notice to file the increased surety bond or deposit. (Authorized by and implementing K.S.A. 1999 Supp. 44-710(e); effective May 1, 1983; amended Feb. 16, 2001.)

50-2-19. Contribution appeal process for employers. To resolve any protest to any determination made pursuant to K.S.A. 44-703, 44-710, 44-710a, 44-710b, 44-710d, 44-717(j), and

44-719(e), and amendments thereto, the following procedures shall be followed:

(a) Request for administrative review. The administrative review shall be made by the chief of contributions or the chief of contributions' authorized representative based upon facts presented or upon additional facts furnished by the employer or secured by the agency. An appeal to the chief of contributions or the chief's authorized representative's determination shall not stay the enforcement of the order made unless the chief of contributions or the authorized representative orders a suspension of enforcement.

(1) Notice of liability determinations. Each employer shall be notified by the secretary or designee of any determination made pursuant to K.S.A. 44-703 and amendments thereto. That determination shall become conclusive and binding upon the employer, unless within 20 days after the mailing of notice of the determination to the employer's last known address, or within 15 days after the hand delivery of that notice, the employer requests, in writing, an administrative review. The request shall set forth the reasons an administrative review is desired.

(2) Notice of contribution rate or benefit cost rate. Each contributing employer shall be notified by the secretary or designee of the employer's rate of contributions and each rated governmental employer of its benefit cost rate for any calendar year pursuant to K.S.A. 44-710, 44-710a, and 44-710d, and amendments thereto. Those determinations shall become conclusive and binding upon the employer, unless within 15 days after the mailing of notice to the employer's last known address, or within 15 days after the hand delivery of that notice, the employer requests, in writing, an administrative review. The request shall set forth the reasons a review is requested.

(3) Notice of benefit payments. Notice shall be given annually to each contributing employer and each rated governmental employer of the benefits paid and charged to its account during the 12-month period immediately preceding the computation date. Notice shall be given quarterly to each reimbursing employer of the reimbursable benefits paid during the previous calendar quarter. Each employer shall have 20 days from the mailing of the notice to the employer's last known address, or within 15 days after hand delivery of the notice to the employer, to request in writing an administrative review to protest the correctness of the pro rata charges of benefit payments

to the employer's account. Nothing in this regulation shall be construed to permit the protest of the eligibility of a claimant to receive benefits under K.S.A. 44-705, and amendments thereto, or to protest a prior determination of chargeability at the time a valid new claim is presented under K.S.A. 44-710(c), and amendments thereto. In the absence of the request in writing for an administrative review, the benefits paid and charged to the employer's account shall become conclusive and binding upon the employer for all purposes.

(4) Notice of transfer of experience rating factors. Notice shall be given to the predecessor and successor employers of the transfer of experience rating factors of a predecessor employer whose business has been acquired by a successor employer as defined in K.S.A. 44-710a(b), and amendments thereto. That determination shall become conclusive and binding upon the predecessor and the successor, unless within 20 days after the mailing of notice thereof to the predecessor's and successor's last known addresses, or within 15 days after the hand delivery of the notice, the predecessor employer, the successor employer, or both, request in writing an administrative review.

(5) Notice of willful failure to pay determinations. Any officer, major stockholder, or other person who has charge of the affairs of an employer shall be notified by the secretary of human resources or designee of any determination made pursuant to K.S.A. 44-717(j) and 44-719(e), and amendments thereto. Those determinations shall become conclusive and binding upon the employer, unless within 20 days after the mailing of the notice to the individual's last known address, or within 15 days after hand delivery of the notice, the individual requests, in writing, an administrative review. The request shall set forth the reasons a review is requested.

(b) Request for administrative hearing.

(1) The employer shall be notified within 60 days of the results of the administrative review, in writing, by the chief of contributions or an authorized representative. The results of the administrative review shall become conclusive and binding upon the employer unless, within 20 days after the mailing of notice thereof to the employer's last known address, or within 15 days after the hand delivery of that notice, the employer requests, in writing, an administrative hearing. The request shall include the reasons a hearing is desired.

(2) If the secretary or designee grants an ad-

ministrative hearing, the employer shall be notified of that determination within 10 days and shall be granted an opportunity for a fair hearing before the secretary or designee.

(3) Upon receipt of a determination granting an administrative hearing as specified in this subsection and upon agreement of all parties in interest, the parties may notify the secretary or designee, in writing, within 10 days from the receipt of the determination, of the parties' desire for mediation. This notice shall include the names and addresses of all parties in interest and a statement that all parties in interest are agreeing to mediation.

(A) Within 10 days from the receipt of a request for mediation, the parties shall be notified by the secretary or designee of the determination. If the request for mediation is denied, the matter shall proceed to administrative hearing. If the request is granted, the administrative hearing may be held in abeyance pending completion of the mediation process. The determination granting or denying a request for mediation shall not be subject to review or appeal.

(B) If the parties are unable to reach agreement through mediation, the matter shall be set for administrative hearing.

(4) At the administrative hearing, the employer shall be entitled to the following:

(A) To be present;

(B) to be represented by counsel or by a designated representative of the employer's choice, at the employer's own expense;

(C) to present oral testimony or written evidence, or both;

(D) to examine witnesses and documents;

(E) to cross-examine witnesses; and

(F) to offer rebuttal testimony or evidence.

(5) Witnesses may be subpoenaed to present materials including books, papers, and records, or to give oral testimony as provided in K.S.A. 44-714(h), (i), and (j), and amendments thereto.

(c) Judicial review. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days. The employer shall be notified within 30 days of the secretary's findings as a result of the administrative hearing. An appeal may be taken from the order of the secretary or designee pursuant to K.S.A. 44-710b(b) or K.S.A. 60-2101(d), and amendments thereto, whichever is applicable. (Authorized by K.S.A. 1999 Supp. 44-714; implementing K.S.A. 1999 Supp. 44-703, 44-710, 44-710a, 44-710b, and

K.S.A. 44-710d; effective May 1, 1983; amended Feb. 16, 2001.)

50-2-20. Notice of effective date of election or termination of reimbursing employer status. Any governmental entity, nonprofit organization or any group of nonprofit organizations identified in K.S.A. 44-710(e)(1), shall be notified by mail of the effective date of their election to become a reimbursing employer for a minimum period of four complete calendar years. An employer shall also be notified by mail of the effective date of the termination of the reimbursing employer payment option when applicable. Employers terminating their reimbursing employer status shall remain liable for reimbursing payments until all wage credits on file as a reimbursing employer are no longer used in determining benefit entitlement. (Authorized by and implementing K.S.A. 44-710(e)(1)(E); effective May 1, 1983.)

50-2-21. Computation of employer contribution rates. (a) The terms "total wages" and "taxable wages," as used in this regulation, shall refer to all payrolls for contributing employers, reported and received by September 1 following the computation date of June 30, for all employment during the fiscal year ending on the computation date. The certified payroll information on September 30 that is required for the computation delineated in this regulation shall be provided by the director of data processing.

(b) Planned yield. The approximate amount of the planned yield for the ensuing calendar year shall be computed as follows:

(1) The planned yield on total wages in column B of schedule III A, of K.S.A. 44-710a(a)(3), and amendments thereto, shall be determined by the reserve fund ratio in column A of the same schedule. The reserve fund ratio shall be computed by dividing the total assets of the employment security fund, on July 31, following the computation date and as certified by the chief of management, by the total payrolls for the preceding fiscal year ended June 30, as certified by the director of data processing.

(2) The average rate of contributions shall be determined by multiplying the ratio of total to taxable payrolls for the preceding fiscal year ended June 30 by the planned yield computed in paragraph (b)(1) of this regulation. In any calendar year in which the taxable wage base changes, the calculation for that calendar year and the follow-

ing calendar year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during the preceding fiscal year ending June 30.

(3) The approximate amount of the planned yield for the ensuing calendar year shall be the taxable wages for the previous fiscal year ended June 30, multiplied by the average rate of contributions computed in paragraph (b)(2) of this regulation, rounded to the nearest \$100,000.00.

(c) Estimated yield from ineligible employer accounts.

(1) Estimated contributions for industry-rated employers.

(A) The computation shall be made using a certified tabulation provided by the director of data processing entitled "all accounts except reimbursing—cross-classification by rate and industry." The procedure for computing the average contribution rate for all industries and for each industry division shall be identical. The rate of the preceding calendar year for each rate group in the industry division shall be cumulatively multiplied times the taxable wages in each corresponding rate group for the industry division. The cumulative total shall be divided by the total taxable wages in the industry to determine the industry rate. The assigned rate for each industry shall be the sum of 1.0 percent plus the computed rate or the sum of 1.0 percent plus the average rate of all employers, whichever is higher. The assigned rate shall not be less than 2.0 percent.

(B) The average rate for all industries shall be computed by cumulatively multiplying the calculated rate of each industry division times the total taxable wages for that industry division and dividing the cumulative total by the total taxable wages for the industry divisions.

(C) The estimated contributions for each specially rated industry division and all other divisions shall be computed by multiplying the taxable wages for the corresponding industry divisions or all other industry divisions by the appropriate assigned rate.

(2) The total estimated yield for active ineligible employer accounts shall be the sum of the estimated contributions for industry-rated employers.

(3) Negative account balance employers, as defined in K.S.A. 44-710a(d), and amendments thereto, shall pay at the statutory rate of 5.4 percent. In addition, negative balance employers shall be assessed a surcharge based on the size of

the employer's negative reserve ratio. The director of data processing shall provide a certified listing of all negative account balance employers. The listing shall contain the negative reserve ratio, number of employers, and taxable wages for the fiscal year ended June 30. Each negative account balance employer shall be identified as shown in schedule II of K.S.A. 44-710a, and amendments thereto. The assigned rate shall be the sum of the statutory rate of 5.4 percent plus the applicable surcharge identified in schedule II of K.S.A. 44-710a, and amendments thereto. The estimated contributions of negative account balance employers shall be computed by multiplying the taxable wages of all negative account balance employers by only the statutory rate. The resultant product shall reflect the estimated yield from negative account balance employers.

(d) The required yield for eligible employer accounts shall be the approximate amount of the planned yield, computed in paragraph (b)(3) of this regulation, less the total estimated yield for active ineligible employer accounts computed in paragraph (c)(2) of this regulation and less the total estimated yield from negative account balance employers computed in paragraph (c)(3) of this regulation.

(e) Rate adjustment for active eligible employer accounts.

(1) A certified array of each active eligible employer account shall be provided by the director of data processing in accordance with schedule I, K.S.A. 44-710a, and amendments thereto. The tabulation shall include the following:

(A) The lowest reserve ratio in each rate group;

(B) the number of employers in each rate group;

(C) the amount of taxable wages in each rate group;

(D) the cumulative amount of taxable wages for all accounts from the first through each succeeding rate group; and

(E) the final, total taxable payrolls for the fiscal year ended June 30, for all active eligible employer accounts. In any calendar year in which the taxable wage base changes, the taxable wages used in the calculation for that calendar year and the following calendar year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.

(2) The average rate required shall be the required yield for eligible employer accounts, de-

terminated in subsection (d) of this regulation, divided by the total taxable payrolls listed in paragraph (e)(1)(E) of this regulation.

(3) The average rate required shall be divided by the average estimated yield of the array to develop an adjustment factor. The average estimated yield of the array shall be computed by cumulatively multiplying the taxable payrolls in each rate group by the experience factor denoted for each rate group in schedule I, K.S.A. 44-710a(a)(2), and amendments thereto, and dividing by the total taxable payrolls for active accounts. The experience factor for each rate group in schedule I shall be multiplied by the adjustment factor to determine the adjusted tax rate for each rate group, with the statutory maximum as an upper limit.

(4) The taxable payrolls for each rate group shall be multiplied by the adjusted tax rate computed for each rate group to determine the estimated contributions for each rate group.

(A) If the adjusted tax rate reaches the statutory maximum at a rate group numerically lower than the highest numbered rate group, or if the computed rate for any group is higher than the statutory maximum, the adjusted tax rates shall be adjusted further. The estimated additional contribution incurred because of the statutory maximum limit of the unadjustable groups shall be prorated over rate groups other than those that are unadjustable. The taxable payrolls and estimated contributions of the unadjustable groups shall be subtracted, respectively, from the totals of all groups and the balances used in the readjustment.

(B) The readjustment shall be accomplished by dividing the total estimated contributions of the adjustable groups by the total taxable payrolls of the adjustable rate groups to determine the required rate of yield for the groups. The estimated rate of yield for the rate groups shall be computed by cumulatively multiplying the experience factor by the corresponding taxable payroll in each rate group and dividing the cumulative total by the total taxable wages of the rate groups. The required rate of yield shall be divided by the estimated rate of yield for the adjustable groups to determine the final adjustment factor.

(C) The experience factors of all rate groups in schedule I shall be multiplied by the final adjustment factor to determine the final effective contribution rates for the eligible contributing employers, with no effective contribution rate to exceed 5.4 percent.

(f) A computation and listing of the effective employer contribution rates shall be prepared by the chief of labor market information services. If, in rounding to the terminal digit, it is determined that the position following the terminal digit is five and all succeeding digits are zero, the terminal digit shall be rounded to the nearest even digit. All such calculations shall be rounded to the nearest $\frac{1}{1000}$ except as mandated by K.S.A. 44-710a(a)(3), and amendments thereto, requiring all rounding be to the nearest $\frac{1}{100}$. (Authorized by K.S.A. 1999 Supp. 44-714; implementing K.S.A. 1999 Supp. 44-710a; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended June 25, 1990; amended Nov. 22, 1996; amended Feb. 16, 2001.)

50-2-22. Concurrent employment by related corporations with a common paymaster.

(a)(1) For the purposes of this regulation, when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster, and when the common paymaster is one of the related corporations that employs the individual, each corporation shall be considered to have paid only the remuneration it actually disburses to that individual. If all of the remuneration to the individual from the related corporations is disbursed through the common paymaster, the total amount of contributions imposed, with respect to wages under K.S.A. 44-703(o), and any amendments thereto, is determined as though the individual has only one employer, the common paymaster. The common paymaster shall be responsible for filing the "employer's quarterly wage report and contribution return" with respect to "wages" it is considered to have paid.

(2) The corporation which intends to act as a common paymaster for a group of related corporations shall notify the division of employment in writing at least 30 days prior to the beginning of the quarter in which the common paymaster reporting is to be effective. That corporation shall furnish the name and account number of each of the corporations in the group. The common paymaster for the group shall also notify the division of employment at least 30 days prior to any change in the group of corporations or termination of the arrangement.

(b) Definitions. The definitions contained in this subsection shall be applicable only to this regulation.

(1) Related corporations. Corporations shall be considered “related corporations” for an entire calendar quarter if they satisfy any one of the following tests:

(A) The corporations are members of a “controlled group of corporations.” For the purposes of this regulation, the term “controlled group of corporations” means:

(i) two or more corporations connected through stock ownership with a common parent corporation, if the parent corporation owns stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of each of the other corporations; or

(ii) two or more corporations, if five or less persons who are individuals, estates, or trusts own stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of each corporation.

(B) In the case of corporations which do not issue stock, at least 50 percent of the members of one corporation’s board of directors are members of the board of directors of the other corporations;

(C) at least 50 percent of one corporation’s officers are concurrently officers of the other corporations; or

(D) at least 30 percent of one corporation’s employees are concurrently employees of the other corporations.

(2) Common paymaster. A “common paymaster” of a group of related corporations is any member of the group that disburses remuneration to employees of two or more of those corporations, including their own, on the behalf of those corporations. The common paymaster shall be responsible for keeping books and records for the payroll with respect to those employees. The provisions of this regulation shall not apply to any remuneration to an employee that is not disbursed through the common paymaster.

(3) Concurrent employment. The term “concurrent employment” means the simultaneous existence of an employment relationship, as described in K.S.A. 44-703(i), and any amendments thereto, between an individual and two or more corporations.

(c) Allocations of contributions.

(1) Subject to the requirements of this regulation, each common paymaster shall have the pri-

mary responsibility for remitting contributions with respect to the remuneration it disburses as the common paymaster. The common paymaster shall compute these contributions as though it were the sole employer of the concurrently employed individuals.

(2) If the common paymaster fails to remit these contributions in whole or in part, it shall remain liable for the full amount of the unpaid portion of these contributions. In addition, each of the other related corporations using the common paymaster shall be jointly and severally liable for its appropriate share, plus a proportionate share of the common paymaster’s unpaid contributions. (Authorized by K.S.A. 1983 Supp. 44-714; implementing K.S.A. 1983 Supp. 44-710i; effective May 1, 1984.)

50-2-23. Payments under employers’ plans on account of sickness or accident disability. (a) Payment by third parties.

(1) Any third party making a payment on account of sickness or accident disability when the payment is not excluded from the term “wages” under paragraph (2) of K.S.A. 44-703(o) shall be treated as the employer with respect to the wages, unless the third party promptly notifies the employer for whom the services are normally rendered of the amount of wages paid. Thereafter, the employer, and not the third party, shall be required to report and pay the contributions due with respect to the wages. The written notice shall be provided by the third party promptly following the end of each calendar quarter so the employer for whom services are normally rendered may report the wages and pay contributions when due each quarter. The written notice shall contain the following information:

(A) The name of the employee paid sick pay; and

(B) The social security account number of the employee paid the sick pay; and

(C) The total amount of sick pay paid to the employee during the calendar quarter.

(2) A third party making a payment on account of sickness or accident disability to an employee as an agent for the employer or making such a payment directly to the employer shall not be treated as the employer under paragraph (1) with respect to the payment unless the agreement between the third party and the employer so provides. The third party shall not be considered an agent of the employer if the third party bears an

insurance risk. If the third party bears no insurance risk and is reimbursed on a cost plus fee basis, the third party shall be considered an agent of the employer whether or not the third party is responsible for making determinations regarding the eligibility of the employer's individual employees for payments. If the third party is paid an insurance premium and is not reimbursed on a cost plus fee basis, the third party shall not be considered an agent of the employer, and shall be treated as the employer as provided in paragraph (1).

(b) Special rules.

(1) For the purposes of paragraph (1) of subsection (a), the last employer for whom the employee worked prior to becoming sick or disabled or for whom the employee was working at the time the employee became sick or disabled shall be deemed to be the employer for whom services are normally rendered, if the employer made contributions on behalf of the employee to the plan or system under which the employee is being paid.

(2) For purposes of subsection (a), when payments on account of sickness or accident disability are made to employees by a third party insurer pursuant to a contract of insurance with a multi-employer plan which is obligated to make payments on account of sickness or accident disability to the employees pursuant to a collective bargaining agreement, and if the third party insurer making the payments complies with the requirements of paragraph (1) of subsection (a) and notifies the plan of the amount of wages paid each employee within the time required for notification of the employer, then the plan, not the third party insurer, shall be required to report and pay the contributions due with respect to the wages. If the plan notifies the employer for whom services are normally rendered of the amount of wages paid each employee within six business days of receipt of the notification, the employer, not the plan, shall be required to report and pay the contributions due with respect to the wages. (Authorized by K.S.A. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-703, as amended by L. 1986, Ch. 190, Sec. 1; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24. Reserved.

50-2-24a. Levy and distraint; requirement of notice before levy. (a) A levy upon the salary, wages or other property of any employer

may be made with respect to any unpaid tax as described in K.S.A. 1985 Supp. 44-717, as amended, only after the secretary or the secretary's designee has notified the employer in writing of the secretary's intention to make the levy.

(b) Not less than 10 days before the day of the levy the notice required under subsection (a) shall be:

- (1) made by personal service;
- (2) left at the dwelling, or usual place of abode, or place of business of the employer; or
- (3) sent by first class U.S. mail to the employer's last known address.

(c) If the secretary has made a finding under K.S.A. 44-717(e) that the collection of tax is in jeopardy, the 10-day period provided in subsection (b) shall not be required. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24b. Levy and distraint; service of levy. (a) The levy shall be served upon an employer or third party by personal service or by mail in accordance with the following requirements.

(1) Personal service.

(A) Individual service. Service upon an individual, other than a minor or incapacitated person, shall be made by:

- (i) delivering a copy of the notice of levy to the individual personally;
- (ii) leaving a copy at the individual's dwelling or usual place of abode with some person of suitable age and discretion then residing there;
- (iii) leaving a copy at the business establishment with an officer or employee of the establishment; or

(iv) delivering a copy to an agent authorized by appointment or by law to receive service of process. If the agent is one designated by a statute to receive service, any additional notice required by statute shall be given. If service as prescribed above cannot be made with due diligence, the secretary or the secretary's designee may order service to be made by leaving a copy of the notice of levy at the dwelling house, usual place of abode or business establishment.

(B) Corporations and partnerships. Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made

by delivering a copy of the notice of levy to an officer, partner or resident, managing or general agent of it or them by leaving a copy at any business office with the person in charge or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process. If the agent is one authorized by law to receive service, and if the law so requires, any additional notice required by statute shall be given.

(C) The "certification of service" on the notice of levy form shall be completed by the secretary's representative who serves the levy and the person served shall acknowledge receipt of the certification by signing and dating it.

(2) Service by mail. Upon the direction of the secretary or the secretary's designee, the notice of levy may be served upon a third party holding property of the employer by registered or certified mail to the third party's address. The return receipt shall be the certificate of service of the notice of levy. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24c. Levy and distraint; continuing levy on salary and wages. (a) A levy upon a third party pertaining to the salary, wages or other income payable to or to be received by an employer shall be effective from the date the levy is first made until the liability out of which the levy arose is satisfied.

(b) A levy shall be released promptly when the liability out of which the levy arose is satisfied and the employer and third party shall be promptly notified that the levy has been released. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24d. Levy and distraint; surrender of property subject to levy. Any person in possession of or obligated with respect to property or rights to property that is subject to levy and upon which a levy has been made shall, upon demand of the secretary, surrender the property or rights or discharge the obligation to the secretary, except the part of the property or rights which is, at the time of the demand, subject to an attachment or execution under any judicial process. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L.

1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24e. Levy and distraint; enforcement of levy. (a) Any employer who fails or refuses to surrender any property or rights to property that is subject to levy, upon demand by the secretary, shall be subject to proceedings to enforce the amount of the levy.

(b) Any third party who fails or refuses to surrender any property or rights to property subject to levy, upon demand by the secretary, shall be subject to proceedings to enforce the amount of the levy or any lesser amount the third party may owe the employer. A final demand shall be served on any third party who fails or refuses to surrender property. Proceedings shall not be initiated by the secretary until five days after service of the final demand.

(c) When a third party who is in possession of or obligated with respect to property or rights to property that is subject to levy and upon which a levy has been made surrenders the property or rights to property on demand of the secretary or discharges such obligation to the secretary, the third party shall be discharged from any obligation or liability to the delinquent employer with respect to the property or rights to property arising from the surrender or payment to the secretary or the secretary's designee.

(d) Person defined. The term "person," as used in K.S.A. 44-717(e)(2), is an individual, or an officer or employee of a corporation, or a member or employee of a partnership, who is under a duty to surrender the property or rights to property, or to discharge the obligation. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24f. Levy and distraint; production of books. If a levy has been made or is about to be made on any property, or right to property, any third party having custody or control of any books or records that contain evidence or statements relating to the property or right to property subject to levy shall, upon demand of the secretary, produce and exhibit the books or records to the secretary. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; imple-

menting K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24g. Levy and distraint; appraisal of property. Any representative of the secretary seizing property shall appraise and set aside to the employer the amount of property declared to be exempt. If the employer objects at the time of the seizure to the valuation fixed by the secretary's representative making the seizure, the secretary shall appoint three disinterested individuals who shall make the valuation. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24h. Levy and distraint; sale of seized property. (a) Notice of seizure. As soon as practical after the seizure of property, notice in writing shall be:

(1) given by the secretary to the employer owning the property and in the case of personal property, any possessor of the property; or

(2) left at the usual place of abode or business of the employer or possessor. If the employer cannot be readily located, or has no dwelling or place of business within the state, the notice may be mailed to the employer's last known address as shown on the Department's records. The notice shall specify the sum demanded, and shall contain a listing of any personal property seized and a description, with reasonable certainty, of any real property seized.

(b) Notice of sale. The secretary shall, as soon as practical after the seizure of the property:

(1) give notice to the employer, in the manner prescribed in subsection (a);

(2) publish a notification in some newspaper published or generally circulated in the county in which the property is seized; and

(3) post a notice at the post office nearest the place where the seizure is made and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner and conditions of the sale. Whenever a levy is made without regard to the 10-day period provided in K.S.A. 44-717(e)(2), public notice of the sale of the property seized shall not be made prior to 10 days following seizure unless the goods seized are perishable.

(c) Sale of indivisible property. If any property

subject to levy is not divisible, the whole property shall be sold.

(d) Time and place of sale. The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice. The sale may be postponed for good reason as determined by the chief of contributions. The postponement may not be more than 30 days from the original date of the sale. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.

(e) Manner and conditions of sale.

(1) Rules applicable to sale.

(A) The sale shall be conducted by public auction or public sale under sealed bids.

(B) If several items of property are seized, the notice of sale shall state whether:

(i) the items will be offered separately, in groups, or in the aggregate; or

(ii) the property will be offered both separately, in groups and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C) The announcement of the minimum price determined by the secretary may be delayed until the receipt of the highest bid.

(D) Payment in full may be required at the time of the acceptance of a bid, or in the alternative part of the payment may be deferred for not more than one month.

(E) The sale may be advertised as appropriate in order to attract the largest number of prospective bidders.

(F) The secretary may adjourn the sale from time to time for a period not to exceed one month.

(2) Payment of amount bid.

(A) If payment in full is required at the time of acceptance of a bid and the purchaser fails to do so the secretary shall immediately sell the property again. If the conditions of the sale permit part of the payment to be deferred, and if the part deferred is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or the part of it that has not been paid or the sale may be declared by the secretary to be null and void for failure to make full payment of the purchase price and the property may be advertised again and sold.

(B) If the property is readvertised and sold again, the new purchaser shall receive the property or the rights to the property, free and clear of any claim or any right of the defaulting purchaser. The amount paid upon the bid price by

the defaulting purchaser shall be forfeited. The amount forfeited shall be applied first to sale expenses and then to the original tax debt. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24i. Levy and distraint; sale of perishable goods. If the secretary determines any property seized is likely to perish or become greatly reduced in price or value by selling it in accordance with 50-2-24h or the property cannot be kept without great expense, the value of such property shall be appraised by the secretary and shall be returned or sold as provided below:

(a) Return to employer. If the employer owning the property can be readily found, the employer shall be given notice of the determination of the appraised value of the property. The property shall be returned to the employer if the employer pays to the secretary an amount equal to the appraised value within the time specified in the notice.

(b) Immediate sale. If the employer does not pay the appraised price of the seized property, the property shall be sold publicly as soon as practical. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24j. Levy and distraint; redemption of property. (a) Before sale. Any employer whose property has been the subject of levy shall have the right to pay the amount due, together with the expenses of the proceeding, to the secretary at any time prior to the sale. Upon full payment, the property shall be restored to the employer by the secretary, and all proceedings in connection with the levy on the property shall cease from the time of the payment.

(b) Redemption of real estate after sale.

(1) Period for redemption. The employer whose real property is sold, the heirs, executors, administrators, or any other person having any interest in the property, or having a lien upon it, or any person acting on their behalf, shall be permitted to redeem the property sold, or any particular tract of the property, at any time within 180 days after the sale.

(2) Price. Any property or tract of property

may be redeemed upon payment to the purchaser of the amount paid by the purchaser together with accrued interest computed at the rate of 18 percent per annum.

(3) Record of redemption. When any lands are redeemed, an appropriate entry of the redemption shall be made upon the record mentioned in K.A.R. 50-2-24m, and the entry on the record shall be evidence of such redemption. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24k. Levy and distraint; certificate of sale; deed of real property. (a) Certificate of sale. When property is sold, a certificate of sale shall be given by the secretary to the purchaser upon payment in full of the purchase price. The certificate for real property sold shall set forth the legal description of the real property, the name of the defaulting employer, the name of the purchaser, and the price paid.

(b) Deed to real property. When any real property is sold and not redeemed within the time provided, a quit-claim deed to the purchaser of the real property shall be executed by the secretary upon the surrender of the certificate of sale. The deed shall recite the facts set forth in the certificate. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24l. Levy and distraint; legal effect of certificate of sale of personal property and deed of real property. (a) Certificate of sale of property other than real property. In all cases of the sale of property other than real property, the certificate of sale shall have the following legal effect:

(1) As evidence. The certificate shall be prima facie evidence of the right of the secretary to make the sale and conclusive evidence of the regularity of the proceedings in making the sale.

(2) As conveyance. The certificate shall transfer to the purchaser all right, title, and interest of the delinquent employer in and to the property sold.

(3) As authority for transfer of corporate stock. If the property consists of stock, the secretary's certificate shall be notice to any corporation, com-

pany, or association of the transfer, and shall be authority for the corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same. The certificate shall be in lieu of any original or prior certificate which shall be void whether canceled or not.

(4) As receipt. If the subject of sale is securities or other evidences of debt, the secretary's certificate shall be a good and valid receipt to the person holding them against any person holding or claiming to hold possession of the securities or other evidences of debt.

(5) As authority for transfer of title to motor vehicle. If the property consists of a motor vehicle, the secretary's certificate shall be notice to any public official charged with the registration of title to motor vehicles of the transfer and shall be authority to the official to record the transfer on the appropriate books and records in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the party holding it. The certificate shall be in lieu of any original or prior certificate which shall be void whether canceled or not.

(b) Deed of real property.

(1) Deed as evidence. The deed given shall be prima facie evidence of the facts stated in it.

(2) Deed as conveyance of title. If the proceedings of the secretary as set forth have been substantially in accordance with the provisions of law, the deed shall be considered and operate as a conveyance of all the right, title, and interest the delinquent employer had in and to the real property sold at the time the lien of the department attached to it.

(c) Effect on junior encumbrances. A certificate of sale of personal property or a deed to real property shall discharge the property from all liens, encumbrances, and titles over which the lien and levy of the department had priority. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24m. Levy and distraint; records of sale. (a) Requirement. A record of all sales and redemptions of real property shall be kept by the secretary. The record shall set forth the tax for which any sale was made, the dates of seizure and

sale, the name of the employer, all proceedings in making the sale, the amount of expenses, the names of the purchasers and the date of the deed.

(b) Copy as evidence. A copy of the record, or any part thereof, certified by the secretary, shall be evidence in any court of the truth of the facts stated. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24n. Levy and distraint; expense of levy and sale. The secretary shall determine the expenses to be allowed in all cases of levy and sale. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24o. Levy and distraint; application of proceeds of levy. When the department has an interest in property in the form of a lien arising under the provisions of K.S.A. 44-717(e) and the department receives money through seizure, surrender or sale of the property, or by redemption of the property prior to its sale by the department, the money realized by these actions shall:

(a) First, be applied toward the expenses of the proceedings;

(b) Second, be applied toward the employer's liability; and

(c) Third, be refunded or credited by the secretary upon written application. The application shall state there is a surplus remaining in the hands of the secretary and the applicant is legally entitled to receive it. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-24p. Levy and distraint; authority to release levy and return property. (a) Release of levy. It shall be lawful for the secretary to release the levy upon all or part of the property or rights to property subject to levy when the secretary determines that a release will facilitate the collection of the liability. Such a release shall not prevent any subsequent levy.

(b) Return of property. If the secretary determines that a levy has been placed wrongfully upon

the property, it shall be lawful for the secretary to return:

- (1) the specific property subject to levy;
- (2) an amount of money equal to the amount of money levied upon; or
- (3) an amount of money equal to the amount of money received by the department from a sale of such property. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

50-2-25a. Electronic filing, definitions.

(a) "Electronically filed document" means a "status determination report," an "employer's quarterly wage report and contribution return," or any document filed with the secretary of human resources, pursuant to chapter 44 of the Kansas statutes annotated, that is filed pursuant to these regulations.

(b) "Electronic filing" means the authorized electronic transmission of information required by the Kansas statutes annotated and these regulations when an employing unit or the employing unit's representative transmits to the secretary of human resources a "status determination report" or an "employer's quarterly wage report and contribution return," pursuant to chapter 44 of the Kansas statutes annotated and these regulations.

(c) "Filing party" means the following:

- (1) the employing unit;
- (2) the employing unit's representative; or
- (3) the person authorized to make electronic filings.

(d) "INK" means the information network of Kansas.

(e) "Secretary" means the secretary of human resources. (Authorized by and implementing L. 1996, Ch. 157, Sec. 1; effective July 7, 1997.)

50-2-25b. Electronic filing, authorized user. A filing may be authorized to use electronic filing upon the written authorization of the secretary or the secretary's designee and INK.

(a) The filing party shall be authorized by the secretary and INK to use electronic filing if these requirements are met:

- (1) the filing party has an account with INK; and
- (2) the secretary and INK determine, after appropriate testing, that the secretary is capable of receiving, indexing, and retrieving the data transmitted by the filing party.

(b) The filing party's authorization to use electronic filing may be suspended or revoked by the secretary when the secretary determines that a filing party's transmissions are incompatible with the electronic filing system or when the secretary receives notification from INK that the filing party is delinquent in making payments on its account.

(c) Each request for authorization to use electronic filing shall be submitted to INK. Upon receiving a request for authorization, INK shall notify the secretary. INK shall provide the requesting party with the necessary information and software or specifications to test the filing party's electronic filing capabilities.

(d) If the filing party is authorized to use electronic filing, INK shall assign an identification number to the filing party. If the filing party will act as a representative for an employing unit, the filing party shall submit to INK a sworn statement attesting to that authorization signed by the employing unit, and INK shall assign an identification number to the employing unit. If the employing unit terminates its relationship with the filing party, the employing unit shall notify INK in writing, and its identification number shall be invalidated. (Authorized by and implementing L. 1996, Ch. 157, Sec. 1; effective July 7, 1997.)

50-2-25c. Electronic filing, contents of transmission. (a) Each transmission of one or more documents for electronic filing shall include the applicable requirements of chapter 44 of the Kansas statutes annotated and shall identify the filing party in a form approved by the secretary and INK.

(b) Each electronically filed document that requires identification of an employing unit shall contain the federal tax identification number and shall indicate whether the debtor is an individual or another entity.

(c) When a request is made for a paper copy of an electronically filed document, the copy printed by the secretary shall include a notation stating that the document is an electronically filed document. (Authorized by and implementing L. 1996, Ch. 157, Sec. 1; effective July 7, 1997.)

50-2-25d. Electronic filing, identification of employing unit. When a regulation adopted pursuant to chapter 44 requires the name of the employing unit or the address of the employing unit, the filing party shall transmit to the secretary and INK an employing unit identification number designated by INK with each docu-

ment. (Authorized by and implementing L. 1996, Ch. 157, Sec. 1; effective July 7, 1997.)

50-2-25e. Electronic filing, date of filing. (a) An electronically filed document shall be deemed to have been filed on the date and at the time the transmission is received and confirmed by the secretary.

(b) Each filing party shall be provided by the secretary, through INK, a confirmation that all transmitted documents meet the requirements of these regulations, including the date and time of filing.

(c) Any document transmitted to the secretary that does not contain the information required by these regulations shall not be filed, and the filing party shall be provided by the secretary, through INK, with a notice that identifies the document and states the reason for rejection of the document. (Authorized by and implementing L. 1996, Ch. 157, Sec. 1; effective July 7, 1997.)

50-2-26. Interest on overpayments. (a) Interest shall be allowed and paid upon any overpayment of contributions or benefit cost payments that the secretary has determined was erroneously collected at the rate established under K.S.A. 79-2968, and amendments thereto.

(b) This interest shall be allowed and paid as follows:

(1) In the case of a credit, no interest shall be paid if the employer chooses to use the credit against future taxes.

(2) In the case of a refund, interest shall be allowed from the last day prescribed for filing the overpaid return to the date of the refund check to the employer.

(3) Notwithstanding paragraph (b)(1) or (2) in the case of a return or an adjustment of tax that is filed after the last date prescribed for filing the return, no interest shall be allowed or paid for any day before the date on which the return or adjustment is filed.

(4) No interest shall be paid until the return is in a processible form. A return shall be deemed to be in a processible form if both of the following conditions are met:

(A) The return is filed on a permitted form.

(B) The return contains the following information:

(i) The employer's name, address, account number, and reporting period; and

(ii) sufficient required information, whether on the return or on required attachments, to permit

the mathematical verification of tax liability and the required wage credits shown on the return as set forth in the form instructions. (Authorized by K.S.A. 1999 Supp. 44-714; implementing K.S.A. 1999 Supp. 44-717(h); effective Feb. 16, 2001.)

Article 3.—UNEMPLOYMENT INSURANCE BENEFITS

50-3-1. Employing unit requirements.

(a) Benefit posters. Each employer shall post and maintain an unemployment insurance benefit poster and the certificate of registration as an employer in a conspicuous place in each plant, branch, or establishment maintained by that employer. Each employer shall be furnished by the secretary with sufficient copies of the poster and certificate to enable compliance with this regulation.

(b) List of workers affected by labor dispute. Upon request by the secretary, an employing unit shall furnish the secretary with a list showing the names and social security numbers of all workers ordinarily performing services in the department or establishment where unemployment is or was caused by a strike, lockout, or other labor dispute.

(c) Information pertaining to workers scheduled for mass layoff. Upon receiving a request from the secretary, an employer shall furnish the secretary with a list of employees scheduled to be involved in a mass layoff, showing the name, social security number, and scheduled date of layoff for each employee.

(d) Response to employer notice. Any base period employer who desires to request reconsideration of a charge to the employer's experience rating account, under K.S.A. 44-710(c) and amendments thereto, shall, within 10 days from the date the notice was sent to the employer, complete all requested information according to the instructions contained on the employer notice and return the form by mail, telefacsimile machine, electronic mail, or any other telephonic or electronic communications.

The employer shall provide the following information:

(1) A complete explanation of the circumstances;

(2) the date of separation, if any;

(3) the signature and title of the person completing the form for the employer;

(4) the employer's firm name and address;

(5) the date the form is completed; and

(6) any other information required by the form.

(e) Request for separation information, job refusal information, and verification of earnings. The secretary shall be authorized to require special reports from any employing unit to verify earnings, separation information, and job refusal information for individuals who have performed services or refused work for that employing unit when that information is needed for any purpose connected with the orderly administration of the benefit provisions of the unemployment insurance law of any state or of the federal government. In response to a request to verify earnings, separation information, or job refusal information, each employing unit shall, within 10 days from the date the request is sent to the employing unit, furnish all of the information requested, in the form stipulated. (Authorized by and implementing K.S.A. 1999 Supp. 44-705(a) and (b), 44-709(a), 44-710(c), and 44-714(a) and (f); effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1980; amended May 1, 1983; amended May 1, 1988; amended Feb. 16, 2001.)

50-3-2. Initial claims for benefits; intra-state workers. (a) Filing an initial claim. Each unemployed worker shall file a claim by telephone, mail, electronic mail, any other telephonic or electronic communications, or any manner prescribed by the secretary.

(b) Definitions. For purposes of determining eligibility for waiver of the one-week waiting period under K.S.A. 44-705 and amendments thereto, these terms shall be defined as follows:

(1) "Terminating business operations within this state" means the cessation or ending of activities that produce goods or provide services by an employer within the state of Kansas. The employer has not provided each employee displaced by this action an opportunity to transfer to another of the employer's business operations in Kansas, or the employer has no other business operation in Kansas. This term shall include the closing of a plant, store, or worksite; the destruction of the business due to natural disaster or civil disruption; and sale of the plant or store to another entity if the new owner does not keep all the employees of the previous owner.

(2) "Declaring bankruptcy" means the filing by an employer for any class of bankruptcy under the federal bankruptcy laws.

(3) The "WARN Act" means the worker ad-

justment and retraining notification act, public law 100-379, which requires an employer to give the employees at least a 60-day advance notice of a plant closing or mass layoff if an employment site will be shut down, resulting in any of the following:

(A) A facility or operating unit is shut down for more than six months.

(B) Fifty or more employees lose their jobs during any 30-day period at a single site of employment.

(C) A layoff of six months or longer meets one of the following conditions:

(i) Affects 500 or more employees; or

(ii) results in an employment loss of 50 to 499 employees if the employees comprise at least 33 percent of the active workforce at a single employment site.

(c) Effective date of initial claim. The effective date of an initial claim shall be the first day of the calendar week in which the filing date, as defined in subsection (d) of this regulation, occurs, unless otherwise provided. When filing occurs with respect to a week that overlaps a preceding benefit year, the effective date shall be the first day immediately following the expiration date of the preceding benefit year.

(d) Filing date of initial claims.

(1) Claim filed by telephone or other form of telephonic communication. The filing date of initial claims filed by telephone or any other form of telephonic communication shall be the actual date the worker contacts the division's call center to file the initial claim. If the worker fails to provide all required information during the original call or within seven days of the original filing date, the filing date shall become the date the information is provided in its entirety.

(2) Claim filed by mail.

(A) The filing date of initial claims filed by mail shall be the date the worker mailed a written request to the division for claim forms or otherwise attempted to file a claim. If the worker fails to return the completed forms to the claims office by the end of the calendar week following the week in which the forms were mailed to the worker, the filing date of the initial claim shall be the date on which the completed forms are mailed to the claims office.

(B) When a worker is given claim forms for completion and directed by a division representative to complete and return the forms to the claims office, the filing date of the initial claim

shall be the actual date the forms were given to the worker. However, if the completed claim forms are not mailed to the claims office before the end of the calendar week following the actual date the forms were provided to the worker, the filing date of the initial claim shall be the actual date the completed forms were mailed to the claims office.

(3) Claim filed by electronic mail or any other means of electronic communication. The filing date of initial claims filed by electronic mail or any other means of electronic communication shall be the actual date the claim is transmitted by electronic mail or other means of electronic communication to the division.

(e) Late filed initial claim by totally or partially unemployed workers. If the effective date of an initial claim, established in accordance with subsection (c) of this regulation, is later than the first day of the calendar week in which the worker became unemployed because of a late filing date, and if the worker establishes good cause for the late reporting in accordance with K.A.R. 50-3-4(a) and files the initial claim during the second consecutive week in which the individual is unemployed, the effective date of the claim shall be the first day of the week in which the worker became unemployed.

(f) New claims. A new claim for benefits shall be filed in a manner prescribed by the secretary, which shall set forth the dates and reasons for separation from recent employment, and any other information required by the division. A new claim for benefits filed by a partially unemployed or temporarily unemployed worker shall constitute that employee's registration for work. Claims by workers living outside the United States and its territories shall be filed in the same manner as that for intrastate claims. Claims personnel shall give each claimant necessary and appropriate assistance as they reasonably can, including referral to the public employment office most accessible to the employee.

Those employees temporarily unemployed, partially unemployed, or affiliated with a union that customarily places its members in employment may be excused from registration for work.

(g) Additional claims. A worker having previously established a benefit year that has not ended shall reinstate the claim by filing an additional claim if either of the following conditions is met:

(1) The employee has earned wages equal to or

in excess of the employee's weekly benefit amount.

(2) The employee has failed to continue the claim for one or more consecutive weeks and has had intervening employment.

The additional claim shall be filed in a manner prescribed by the secretary, which shall set forth the date and reasons for separation from recent employment, and any other information that the division may prescribe in the forms. Claims by workers living outside the United States and its territories shall be filed in the same manner as that for intrastate claims. An additional claim for benefits filed by a partially unemployed or temporarily unemployed worker shall constitute that employee's registration for work.

(h) Payment of benefits for waiting week pursuant to K.S.A. 44-705 and amendments thereto. The benefits for the waiting week period shall be paid in the claimant's fourth week of unemployment. A break in claims during the period of three consecutive weeks or the claimant's failure to meet the eligibility requirements during any of the three weeks shall result in a nonpayable waiting week. (Authorized by and implementing K.S.A. 2006 Supp. 44-709(a) and K.S.A. 2006 Supp. 44-705(d), as amended by L. 2007, ch. 16, §2; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1974; amended May 1, 1980; amended May 1, 1983; amended Feb. 16, 2001; amended Nov. 2, 2007.)

50-3-2a. Waiver of requirement to register for work, exceptions. (a) Except as provided by subsection (b) of this regulation, the requirements of K.S.A. 44-705(a), and amendments thereto, shall be waived for all claimants.

(b) Each claimant who is identified by the secretary as likely to exhaust benefits and who is selected to participate in reemployment services through the system established under K.S.A. 44-705(f), and amendments thereto, shall comply with the requirements of K.S.A. 44-705(a), and amendments thereto, requiring the claimant to register for work and to report at an employment office in order to meet the eligibility requirements of K.S.A. 44-705, and amendments thereto, unless the secretary determines the claimant has satisfied the criteria of paragraphs (1) or (2) of K.S.A. 44-705(f), and amendments thereto.

(c) Nothing in this regulation shall be deemed to waive the requirement in subsection (c) of K.S.A. 44-705, and amendments thereto, that all

claimants are to be able to work, available for work, and pursuing employment in accordance with the provisions of K.S.A. 44-705(c), and amendments thereto. (Authorized by and implementing K.S.A. 2005 Supp. 44-705; effective Nov. 3, 2006.)

50-3-3. Continued claims for benefits; intrastate workers. (a) Continued claim for benefits. Continued claims for benefits shall be filed as prescribed by the division setting forth the following:

- (1) That the worker is unemployed;
- (2) that the worker has performed no services and earned no wages except as reported; and
- (3) any other information required.

(A) Change in status. A worker who initiated a claim as partially unemployed and who becomes temporarily unemployed and remains so through four consecutive weeks shall be formally registered for work in accordance with practices of the job service and thereafter continue the claims as a totally unemployed worker until the worker again becomes partially unemployed.

(b) Manner of reporting. The worker shall file continued claims by mail, telephone, or as otherwise directed by the division.

(c) Frequency of reporting.

(1) Workers filing claims for total, partial, or temporary unemployment shall file their continued claims for benefits on a weekly basis by telephone or as otherwise instructed.

(2) Claims for partial or temporary unemployment. A worker filing continued claims for benefits for partial or temporary unemployment shall file these claims by telephone, or as otherwise instructed any time within seven days from the close of the week of partial or temporary unemployment being claimed.

(d) Failure to contact a representative of the division or late filing; totally or partially unemployed workers. If a worker fails to file a continued claim for benefits as directed, as provided in subsection (c) of this regulation, but does so during the subsequent week, establishes good cause in accordance with K.A.R. 50-3-4(a) for the late filing, and is otherwise eligible, the claim shall be accepted by the division. If a worker fails to contact the division when directed to do so in accordance with subsection (c) of this regulation, then subsequent continued claims filed by the worker shall be denied until the worker contacts a representative of the division. These denied claims

shall be reinstated and allowed if the worker is otherwise eligible, and if the individual contacts a representative of the division within 14 days from the date the worker should have contacted a representative and at that time establishes good cause as provided in K.A.R. 50-3-4(a) for the failure to contact a representative of the division as directed.

(e) Failure to report to participate in the worker profiling and reemployment service program. A worker selected to participate in reemployment services shall have good cause for failure to do so if the worker was prevented from participation due to any of the following reasons:

- (1) Employment;
- (2) illness or disability;
- (3) current participation in or previous completion of similar services;
- (4) relocation from the area or residing beyond a reasonable commuting distance from the services;
- (5) compelling personal reasons; or
- (6) unreasonableness or impracticality of participation. (Authorized by and implementing K.S.A. 1999 Supp. 44-705(a) and (b), 44-709(a), and 44-714(a); effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1974; amended May 1, 1980; amended Feb. 16, 2001.)

50-3-4. Good cause for late filing; claims for total or partial unemployment. (a) If any of the conditions listed below in subsection (b) is met, at the time that the action listed below in paragraph (a)(1), (2), or (3) occurred, a worker shall be deemed to have good cause for any of the following:

(1) Late filing of an initial claim, at the time the worker intended to file and during the balance of the calendar week;

(2) failure to file continued claims; or

(3) failure to contact a representative of the division as otherwise directed.

(b)(1) The office to which the worker reports was unable to provide service as scheduled.

(2) The worker was employed for wages.

(c) The worker was ill or disabled.

(d) The worker was influenced by coercion or intimidation exercised by an employer to prevent the worker from filing.

(e) The worker made reasonable efforts to file claim but was prevented by circumstances beyond the worker's control from actually doing so.

(f) There was good cause shown that prevented the worker from filing a claim.

(g) The worker's failure to file a claim resulted from erroneous information or instructions given the worker by a representative of the division. (Authorized by and implementing K.S.A. 1999 Supp. 44-705(a) and (b), 44-709(a), and 44-714(a); effective Jan. 1, 1966; amended May 1, 1980; amended Feb. 16, 2001.)

50-3-5. Benefit payments; interstate workers. (a) Interstate cooperation. The following regulation shall govern administrative cooperation with other states adopting a similar regulation for the payment of benefits to interstate claimants.

(b) Definitions. As used in this regulation, unless the context clearly requires otherwise, the following terms shall have the meanings specified below:

(1) "Agent state" means any state from or through which an individual files a claim for benefits from another state.

(2) "Benefits" means the compensation payable to an individual, with respect to unemployment, under the unemployment insurance law of any state.

(3) "Interstate benefit payment plan" means the plan approved by the interstate conference of employment security agencies under which benefits are payable to unemployed individuals absent from the state or states in which benefit credits have been accumulated.

(4) "Interstate claimant" means an individual who files claim for benefits under the unemployment insurance law of a liable state from another state, through the facilities of an agent state, or directly with the liable state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in another state to work in a liable state, unless the Kansas department of human resources, division of employment security finds that this exclusion would create undue hardship on these claimants in specified areas.

(5) "Liable state" means any state against which an individual files, from or through another state, a claim for benefits.

(6) "State" shall include the District of Columbia, Puerto Rico, and the Virgin Islands.

(7) "Week of unemployment" shall include any week of unemployment as defined in the law of

the liable state from which benefits with respect to that week are claimed.

(c) Notification of interstate claim. The liable state shall notify the agent state of each initial claim and each week claimed filed from the agent state, using the uniform procedures and record format pursuant to the interstate benefit payment plan.

(d) Registration for work.

(1) The agent state shall register for work each interstate claimant who files through the agent state or upon notification of direct filing with the liable state as required by the laws, regulations, and procedures of the agent state. This registration shall be accepted as meeting the registration requirements of the liable state.

(2) Each agent state shall duly report, to the liable state in question, each interstate claimant who fails to meet registration or reemployment assistance reporting requirements of the agent state.

(e) Benefit rights of interstate claimants. If a claimant files a claim against any state and it is determined by the state that the claimant has available benefit credits in the state, the claims shall be filed against the state only as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits. For the purposes of this regulation, benefit credits shall be deemed to be unavailable under either of the following conditions:

(1) Whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable; or

(2) whenever benefits are affected by the application of a seasonal restriction.

(f) Claims for benefits.

(1) Claims for benefits or for a waiting period filed through the facilities of an agent state shall be filed by interstate claimants using approved methods and procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed by calendar week. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state.

(2) Claims for benefits or for a waiting period filed by an interstate claimant directly with the liable state shall be filed in accordance with the liable state's procedures.

(3) With respect to weeks of unemployment during which an individual is attached to the in-

dividual's regular employer, the liable state shall accept as timely any claim, including an initial claim or weeks claimed filed through the agent state within the time limit applicable to these claims under the laws of the agent state.

(g) Providing assistance to interstate claimants.

(1) Each agent state, upon request by an interstate claimant, shall assist the individual with the understanding and filing of necessary notices and documents.

(2) The liable state shall provide interstate claimants with access to information concerning the status of their claims throughout the normal business day.

(h) Eligibility review program. The liable state shall schedule and conduct eligibility review interviews for interstate claimants.

(i) Determination of claims.

(1) The agent state shall, in connection with each claim filed by an interstate claimant, identify to the liable state in question any potential issue relating to the claimant's availability for work and eligibility for benefits as determined by the agent state.

(2) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to the identification of potential issues identified in connection with the initial claim or weeks claimed filed through the agent state and the reporting of relevant facts pertaining to each claimant's failure to register for work or report for reemployment assistance as required by the agent state.

(j) Appellate procedure.

(1) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims when so requested by a liable state.

(2) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state.

(3) The liable state shall conduct hearings in connection with appealed interstate benefit claims. The liable state may contact the agent state for assistance in special circumstances.

(k) Extension of interstate benefit payment plan to include claims taken in and for Canada. This regulation shall apply in all its provisions to

claims taken in and for Canada. (Authorized by and implementing K.S.A. 1999 Supp. 44-714(k); effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1980; modified, L. 1981, ch. 421, May 1, 1981; amended May 1, 1983; amended Feb. 16, 2001.)

50-3-6. Appellate procedure. Issuance of subpoenas. Whenever the attendance of witnesses or the production of documents, payroll records or other evidence is desired by any party to the proceeding, a request for a proper subpoena, on a form provided by the division entitled request for issuance of subpoena, must be filled out, signed by such party, and filed with the office where the claim was filed or at the administrative office in Topeka, Kansas. Such request must be filed in due time for such subpoena to be issued and served prior to the time such appeal is to be heard. Subpoenas to compel the attendance of witnesses and the production of records for any hearing, unless directed to issue by the secretary, or any duly authorized representative of the secretary, shall be issued only upon a showing of a necessity therefore by the party applying for the issuance of the subpoena. After the issuance of a subpoena, a copy thereof shall be served by an employee of the division. (Authorized by K.S.A. 1980 Supp. 44-714(a), (g) and (h); effective Jan. 1, 1966; amended May 1, 1980.)

50-3-7. Affidavit of bona-fide employment and wages paid. Claimant's affidavit will be required in support of his or her benefit claim where the listed employer has either failed to verify claimant's alleged wages, previous employment, or where the agency files do not indicate any records or information concerning the listed employer.

The division will utilize the claimant's affidavit in order to make a monetary or nonmonetary determination only if the claimant submits documentary evidence such as, but not limited to, a form W-2, withholding tax statement or a payroll check stub.

When an affidavit is taken, the division representative will explain to the claimant that the determination based on claimant's statement is not final and may be subject to adjustment upon the receipt of information provided by the claimant's listed employer, or other official reports concerning previous employment and separation information. (Authorized by K.S.A. 1980 Supp. 44-709(a); effective May 1, 1980.)

Article 4.—DISCLOSURE OF INFORMATION

50-4-1. (Authorized by K.S.A. 1980 Supp. 44-714(a); effective Jan. 1, 1966; revoked May 1, 1980.)

50-4-2. Limitations and procedures concerning disclosure. (a) Information obtained from any worker, employing unit, or other persons or groups pursuant to the administration of employment security law shall not be disclosed, directly or indirectly, in any manner revealing the individual's or employing unit's identity, except in the following circumstances:

(1) Information shall be disclosed by telephone, in person, or in writing to the individual or employing unit that furnished the requested information or to the lawful representative, if the individual, employing unit, or representative is properly identified in a manner that insures the identity of the individual, employing unit, or representative.

(2) Information shall be disclosed to any claimant, employing unit, or designated representatives at a hearing before the secretary or a hearing pursuant to K.S.A. 44-709, and amendments thereto, concerning the payment or denial of benefits if all of the following conditions are met:

(A) The requested information relates to the payment or denial of benefits.

(B) The information is to be used by the claimant or employing unit to aid in the preparation of evidence to be presented at a hearing before the secretary or a hearing pursuant to K.S.A. 44-709, and amendments thereto, concerning the payment or denial of benefits.

(C) The request is on a form provided by the secretary.

(D) If the information is to be disclosed to a representative of the claimant or employing unit, the claimant or employing unit designates the representative in writing on the form furnished by the secretary.

(3) Information shall be disclosed to officers or employees of an agency of the federal government or a state, territorial, or local government in the performance of their public duties, upon written request and on a form provided by the secretary, if the following conditions are met:

(A) The written request specifies the information desired.

(B) The written request states that the requested information will not be released or pub-

lished in any manner. The introduction of any information disclosed as evidence at a public hearing or as part of a record available to the public shall constitute publication.

(4) Information shall be disclosed upon written request of either of the parties or their representatives for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state benefit program if both of the following conditions are met:

(A) The written request is accompanied by a subpoena or order for records production from an administrative law judge or other official.

(B) The written request states that the requested information will not be released or published in any manner. The introduction of any information disclosed as evidence at a public hearing or as part of a record available to the public shall constitute publication.

(5) Information shall be disclosed as required by any other statute of the federal government or the state of Kansas if the request for information is in writing and the statutory authorization for the release of the requested information is cited in the written request.

(b) Information disclosing the identity of a claimant or employing unit may be used in criminal or civil court proceedings brought by the state of Kansas or secretary of human resources pursuant to the enforcement of the employment security act.

(c) General information concerning employment opportunities, employment levels and trends, and labor supply and demand may be released if no information disclosing the claimant's or employing unit's identity is included.

(d) In all cases in which an application for information is granted, the information shall be furnished in written form.

(e) Requests for information shall be made to the unemployment insurance claims office where the claim was filed or the administrative office in Topeka, Kansas. Forms for requests for information, which by this regulation shall be supplied by the secretary, shall be made available through the unemployment insurance claims office or the administrative office in Topeka, Kansas.

(f) The secretary may require reimbursement of reasonable expenses incurred in furnishing the requested information, unless the following conditions are met:

(1) The information is furnished to a claimant

or employing unit pursuant to an unemployment insurance claim.

(2) Federal or state law specifically requires the information to be furnished without cost to the individual or agency requesting the information.

(g) An individual may request individual wages

to be reported by completing an “application for individual wages” and presenting that individual’s social security card and one picture identification card. (Authorized by K.S.A. 1999 Supp. 44-714(a); implementing K.S.A. 1999 Supp 44-714(f); effective May 1, 1980; amended May 1, 1988; amended Feb. 16, 2001.)